

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 2 Family Connections and Foster Family Agency Reference Checks

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 14, 2005, as follows:

September 14, 2005
Office Building # 9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 14, 2005.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT: Office of Regulations Development
California Department of Social Services
744 P Street, MS 7-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586 FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

Title 22, Division 6, Chapter 4 (Small Family Home Licensing Requirements), Section 83068.2 (Needs and Services Plan); Title 22, Division 6, Chapter 5 (Group Home Licensing Requirements), Section 84068.2 (Needs and Services Plan); Title 22, Division 6, Chapter 8.8 (Foster Family Agency) Licensing Requirements), Section 88001 (Definitions), Section 88022 (Plan of Operation), Section 88031 (Application for Certification), Section 88054 (Penalties), Section 88066.2 (Content of Certified Family Home or Licensed Foster Family Home Case Record), Section 88066.3 (Additional Content of Certified Family Home Case Records for Specialized Certified Family Homes), Section 88068.2 (Needs and Services Plan), Section 88069.7 (Content of Certified Family Home or Licensed Foster Family Home Case Record), Section 88069.8 (Additional Content of Certified Family Home Case Records for Specialized Certified Family Homes); and Title 22, Division 6, Chapter 9.5 (Foster Family Home Licensing Requirements), Section 89405 (Training Requirements) and Section 89468 (Admission Procedures).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In 2003 the Legislature enacted Assembly Bill (AB) 458, Chapter 331, Statutes of 2003 which amended Chapter 3, Article 2.7 of the Health and Safety Code to amend Section 1529.2 of the Health and Safety Code. This amendment requires that initial and ongoing training for foster parents must include information on the right of foster children to be free from discrimination for specified reasons. The proposed handbook change will add this information to the existing language from Section 1529.2 of the Health and Safety Code in existing handbook.

In 2004 the Legislature enacted AB 2661, Chapter 643, Statutes of 2004, which amended Chapter 3, Article 1 of the Health and Safety Code to add Sections 1506.7 through 1506.9, and amend Chapter 3, Article 3, Section 1536 of the Health and Safety Code. These amendments establish requirements for foster family agencies to conduct background checks on applicants for certification to operate certified family homes, address confidentiality and liability issues related to these checks, and authorize the California Department of Social Services (CDSS) to assess civil penalties for failure to provide specified reports.

Foster family agencies are authorized to certify applicants to operate certified family homes to provide care and supervision for children under the age of 18. Individuals who have been decertified for violations of licensing regulation or agency policies sometimes attempt to become certified by another agency or licensed by the State or a county as a foster parent. Existing regulations do not have reference-check requirements, and confidentiality provisions have led to uncertainty about the legality and liability of requesting and releasing information about an individual's performance as a certified or licensed foster parent. Foster family agencies also do not always report the certification and decertification information that allows CDSS to track these actions in a timely manner. The proposed regulations will serve to improve the screening process of applicants for certification by providing sanctions for failure to report certifications and decertifications and establishing reference-check procedures that will not result in civil liability or violations of confidentiality laws.

The U.S. Department of Health and Human Services Children's Bureau Report on California's Child and Family Services Review that was released on January 10, 2003 identified concerns about the ability of children in group homes and placed through foster family agencies to maintain family connections. In response to this review, CDSS's Children and Family Services Division developed a Program Improvement Plan that included steps to be taken to ensure that foster children would be able to maintain these connections. One of these steps was to specify, in licensing regulations, the

responsibilities of staff in group homes and foster family agencies to ensure that children maintain family connections. The proposed regulations establish requirements more specific than those in existing regulations for group home and foster family agency staff to ensure that this occurs. In the interest of consistency for foster children, the proposed regulations would extend these requirements to all licensed children's residential facilities.

COST ESTIMATE

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require State reimbursement under Section 17500 et seq. of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Health and Safety Code Section 1530.

Subject regulations implement and make specific Health and Safety Code Sections 1506.7, 1506.8, 1506.9, 1530, 1531, 1536, and 1563.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Susan Kupper (916) 657-2586

Backup: Alison Garcia (916) 657-2586

AGENDA ITEM(S) FOR THIS PUBLIC HEARING - _____

ITEM #1 ORD #0505-06

ITEM #2 ORD #

ITEM #3 ORD #